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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/438,436	11/12/1999	JEFFREY MARK ACHTERMANN	AT9-99-655	9315

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EXAMINER	
TODD, GREGORY G	
ART UNIT	**PAPER NUMBER**
2157	13

DATE MAILED: 12/30/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/438,436	Applicant(s) ACHTERMANN ET AL.	
	Examin r Gregory G Todd	Art Unit 2157	

-- Th MAILING DATE of this communication appears on the cover sheet with the correspond nce address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *12 December 2003* .

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-33* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-33* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)☐ The proposed drawing correction filed on _____ is: a)☐ approved b)☐ disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12)☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____ .

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) ☐ The translation of the foreign language provisional application has been received.

15)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ .
4) ☐ Interview Summary (PTO-413) Paper No(s). _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: .

DETAILED ACTION

Response to Request for Reconsideration

This is a fourth office action in response to applicant's request for reconsideration filed, 12 December 2003, of application filed, with the above serial number, on 12 November 1999 in which no amendments were made to the claims and claims 1-33 are pending in the application.

Applicant's request for reconsideration of the finality of the rejection of the last Office action is persuasive and, therefore, the finality of that action is withdrawn.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-3, 5, 12-14, 16, 23-25, and 27 are rejected under 35 U.S.C. 102(e) as being anticipated by Williams (hereinafter "Williams", 6,411,982).

3. As per Claims 1, 12, and 23, Williams discloses a connection scheduling method, wherein Williams discloses:

- determining if a job is available for scheduling (determining if the task request is due to be scheduled) (at least col. 4, lines 60-67);

- determining, in response to said step of determining if said job is available, if a session is available, wherein said session is included in a pool of sessions (threads), said pool of sessions having a preselected one of a set of priority levels corresponding to a priority level of said job and wherein said session effects an execution of said job (In-Service queue entry filling from Priority Ordered queue) (at least col. 2 line 58 - col. 3 line 2; also col. 3, lines 10-26); and

- launching said session to effect said execution of said job, if said session is available (task request completing execution from In-Service queue) (at least col. 3, lines 19-32).

4. As per Claims 2, 13, and 24.

- session comprises a thread (at least col. 1, lines 47-54; col. 4, lines 21-25).

5. As per Claims 3, 14, and 25.

creating a connection to a target system for execution of job (implicitly connecting when requesting a task) (at least Fig. 5; col. 4, lines 21-37).

6. As per Claims 5, 16, and 27.

launching an error handling thread in response to an error condition, the error handling thread releasing said session (discharging request from In-Service queue if exceeding time interval) (at least col. 3, lines 29-37).

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

8. Claims 4, 6-7, 15, 17-18, 26, and 28-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Williams (hereinafter "Williams", 6,411,982).

Williams does not explicitly disclose determining if connection is an existing connection, and creating the connection is performed if connection is not an existing connection. Official notice has been taken that a connection will be created if it is not already connected. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the use of creating a connection only when not already connected because it would be redundant to connect while already being connected and to request a task to be done would require being connected. For example, Sullivan discloses determining if connection is an existing connection, and creating the connection is performed if connection is not an existing connection (at least Sullivan col. 8, lines 40-57).

9. As per Claims 6, 17, and 28.

Williams fails to explicitly disclose changing value of a job state from a first value to a second value in response to said launching of said error handling thread. Official notice has been taken that the "value" of the job state changes when the task is discharged from memory (at least col. 3, lines 29-37). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to implement using a job state value to indicate that the task is "DISCHARGED", "PENDING", etc. because this could enhance visibility of the exact status of the

requested task. For example, Threlkeld discloses changing value of a job state from a first value to a second value in response to said launching of said error handling thread (at least Threlkeld col. 8, lines 15-49).

10. As per Claims 7, 18, and 29.

the first value signaling that the job is available for scheduling (re-entered into queue when there is no error) (at least Williams col. 3, lines 29-35).

11. Claims 8-9, 19-20, and 30-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Williams in view of Threlkeld (hereinafter "Threlkeld", 6,502,121).

12. As per Claims 8, 19, and 30.

Williams fails to explicitly disclose retrying the steps of determining if a job is available for scheduling, determining if a session is available, and launching said session in response to an error condition. However, the use and advantages for retrying tasks is well known to one skilled in the art at the time the invention was made as evidenced by the teachings of Threlkeld (at least Threlkeld col. 8, lines 30-49; Fig. 7A). Threlkeld discloses a job being relaunched due to an error. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the use of Threlkeld's job relaunching into Williams' system because this would allow a task to be completed if it is not completed the first time by relaunching Williams' whole process over again, thereby completing the requested task.

13. As per Claims 9, 20, and 31.

Williams fails to explicitly disclose the step of retrying to be repeated until a predetermined time interval has elapsed. However, the use and advantages for retrying tasks based on elapsed time is well known to one skilled in the art at the time the invention was made as evidenced by the teachings of Threlkeld (at least Threlkeld col. 8, lines 30-49; Fig. 7B). Threlkeld discloses relaunching after a delay period after it attempts to relaunch immediately. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the use of Threlkeld's repeated relaunch sequence into Williams's system because this would further allow tasks that could not be completed and relaunched the second time to attempt again at a later time when there might be less network congestion, for example.

14. Claims 10-11, 21-22, and 32-33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Williams in view of Threlkeld and further in view of Hlasnik et al (hereinafter "Hlasnik", 5,925,096).

15. As per Claims 10, 21, and 32.

Williams and Threlkeld fail to explicitly disclose registering a callback method in response to an expiry of a predetermined time interval. However, the use and advantages for responding to a time expiration is well known to one skilled in the art at the time the invention was made as evidenced by the teachings of Hlasnik (at least Hlasnik Abstract; col. 6, lines 48-55; col. 6 line 62 - col. 7 line 10). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the use of Hlasnik's responding to an expiry of an elapsed time into

Williams' system because this would allow the client application to perform its function and then return control to Williams' host computer (target system) when the time does expire.

16. As per Claims 11, 22, and 33.

Williams and Threlkeld fail to explicitly disclose the steps of determining if a job is available for scheduling, determining if a session is available, and launching said session being performed in response to an invoking of a callback method by a target system, the target system for execution of said job. However, the use and advantages for a target system responding to an elapsed time expiration is well known to one skilled in the art at the time the invention was made as evidenced by the teachings of Hlasnik (at least Hlasnik Abstract; col. 6, lines 48-55; col. 6 line 62 - col. 7 line 10). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the use of Hlasnik's responding to an expiry of an elapsed time into Williams' system because this would allow the client application to perform its function and then return control to Williams' host computer (target system) when the time does expire, and thus have the requested task be entered into the thread and be completed.

Response to Arguments

17. Applicant's arguments filed 12 December 2003 have been fully considered but they are not persuasive.

18. Applicant's continue to argue Williams does not disclose determining if a session is available in response to determining if a job is available with a pool of sessions

having a corresponding job priority. However, Williams clearly discloses the use of discovering an available execution entry for a discovered task request having been entered into a priority-ordered queue for the execution of the task to commence as previously stated.

19. In response to applicant's argument that launching a session does not meet the language of commencing the execution of a task from the queue, a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. In a claim drawn to a process of making, the intended use must result in a manipulative difference as compared to the prior art. See *In re Casey*, 152 USPQ 235 (CCPA 1967) and *In re Otto*, 136 USPQ 458, 459 (CCPA 1963).

20. Applicants argue Williams does not disclose a session comprising a thread. However, Williams clearly discloses, as applicants admit, using threads to schedule task requests, wherein the task requests are executed within a queued 'session' thus comprising a thread.

21. Applicants argue Williams does not disclose creating a connection to a target system for the execution of the job. Applicant's arguments fail to comply with 37 CFR 1.111(b) because they amount to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references. However, examiner reiterates that

the dispatcher client making method calls on method server to perform the task according to the schedule meets the broad language of creating a connection to a target system for the execution of the job.

22. Applicants argue Williams does not disclose launching an error-handling thread. Applicant's arguments fail to comply with 37 CFR 1.111(b) because they amount to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references. However, examiner reiterates originally cited Williams' use of discharging request from In-Service queue if exceeding time interval, thus if an error occurs, such as exceeding a time interval, the request is discharged and released from the queue / session.

23. Applicants traverse Official Notice of determining if a connection is existent and thus connecting if not; and changing of a job state value if an error has occurred with an original value indicating availability. Directly corresponding evidence is provided that supports the prior common knowledge finding.

24. In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988)and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, Williams

discloses the cycle is repeated for a task to be executed (at least col. 3, lines 29-36) and simply does not disclose it being repeated on condition of there being an error. Therefore, Threlkeld simply is used as disclosing a well known procedure of relaunching a task or job due to an error and since Williams and Threlkeld disclose performing tasks and performance with respect to an error executing a task it would have been obvious to use Threlkeld's technique of relaunching tasks due to error to effect the tasks.

25. Applicants argue Williams and Threlkeld, hereinafter "the combination", do not disclose Williams discloses the cycle is repeated for a task to be executed (at least col. 3, lines 29-36) and simply does not disclose it being repeated on condition of there being an error. Therefore, Threlkeld simply is used as disclosing a well known procedure of relaunching a task or job due to an error and since Williams and Threlkeld disclose performing tasks and performance with respect to an error executing a task it would have been obvious to use Threlkeld's technique of relaunching tasks due to error to effect the tasks.

26. Applicants argue the combination does not disclose repeatedly retrying until a predetermined interval has elapsed. However, Threlkeld discloses the job being relaunched immediately if possible and if not, relaunched after a delay period and thus after a time interval has elapsed.

27. In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the

references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, the combination discloses retrying performing a task in response to an error immediately and/or after a delay period at which point the job end point is set (at least Threlkeld col. 8, lines 50-64) and simply does not disclose a callback method being registered on condition of the job end date being set. However, the current specification only broadly states "the job state is set to "UNREACHABLE" and a login callback method is registered with the corresponding gateway of the target endpoint system". Therefore, Hlasnik is used to disclose the well known use at the time of a callback method being registered and one would be motivated to use Hlasnik's system as Hlasknik states the client application can perform its function and return control to the host system as this would allow the combination to continue processing the queue and not terminate the other tasks scheduled in the queue because the host system would not have control via simply invoking a callback method.

28. Applicants argue the combination in view of Hlasnik does not disclose determining if a job and session are available in response to invoking a callback method. However, the combination discloses retrying performing a task in response to an error immediately and/or after a delay period at which point the job end point is set (at least Threlkeld col. 8, lines 50-64) and simply does not disclose a callback method being registered on condition of the job end date being set. However, the current specification only broadly states "the job state is set to "UNREACHABLE" and a login

callback method is registered with the corresponding gateway of the target endpoint system". Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the use of Hlasnik's responding to an expiry of an elapsed time into Williams' system because this would allow the client application to perform its function and then return control to Williams' host computer (target system) when the time does expire, and thus have the requested task be queried into the thread to be completed.

Conclusion

29. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

30. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Newly cited Kamada et al in addition to previously cited Silva et al ('760), Hanif et al, Dixon et al, Herbert et al, Brackett et al, Marshall, Teng, Batra,

Behm et al, Davis et al, Murray, Trugman, Morris et al, Sundararajan, Beaulieu et al, Farrell et al, Bigus, Silva et al ('537), Zolnowsky, Coffman et al and Ross et al are cited for disclosing pertinent information related to the claimed invention.

31. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gregory G Todd whose telephone number is (703)305-5343. The examiner can normally be reached on Monday - Friday 9:00am-6:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ario Etienne can be reached on (703)308-7562. The fax phone number for the organization where this application or proceeding is assigned is (703)872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)305-3900.

Gregory Todd

Patent Examiner

Technology Center 2100

ARIO ETIENNE
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